

PATENT

REMARKS

Claims 1, 4-6, 9, 15-16, and 22-23 are pending in the present application.

In the above amendments, claims 1, 9, 15, 16 have been amended, claims 2-3, 7-8, 10-14, and 17-21 have been cancelled without prejudice, and new claims 22-23 have been added.

In the Office Action, the Examiner rejected claims 1 and 15 under 35 USC 102(e) as being anticipated by Yun et al. (Yun) and rejected claims 2-14 and 16-21 under 35 USC 103(a) as being unpatentable over Yun et al. in view of Park et al. (Park).

Claim Rejections – 35 USC § 102

In the Office Action, claims 1 and 15 were rejected under 35 U.S.C 102(e) as being anticipated by Yun et al.

It is respectfully submitted that Yun does not teach nor suggest certain claimed features as now claimed. In particular, with reference to independent claim 1, it is respectfully submitted that Yun does not teach nor suggest the claimed feature **“determining a transition of said determined state from a busy open state to an idle open state, and after the transition from said busy open state to said idle open state, said gating transmissions ceases transmission of data rate control information on said data rate control channel from said mobile station to said base station”** as now claimed.

Similarly, with reference to independent claim 15, it is respectfully submitted that Yun does not teach nor suggest the claimed feature **“means for determining a transition of said determined state from a busy open state to an idle open state, wherein after the transition, said means for gating transmissions ceases transmission of data rate control information on said data rate control channel from said mobile station to said base station”** as now claimed.

Similarly, with reference to newly added independent claim 22, it is respectfully submitted that Yun does not teach nor suggest the claimed feature **“after transitioning from the busy open state to an idle open state, ceases transmission of data rate control information from the mobile station”** as claimed.

Attorney Docket No.: 010359

Customer No.: 23696

PATENT

Claim Rejections – 35 USC § 103

In the Office Action, claims 2 – 14 and 16 – 21 were rejected under 35 U.S.C 103(a) as being unpatentable over Yun et al. in view of Park et al.

With respect to independent claim 9, it is respectfully submitted that neither Yun nor Park, individually or collectively, teaches or suggests the claimed feature **“ceasing, in response to said concluding of delivery of said data file on said traffic channel from said mobile station to said base station, communication of data rate control information on said data rate control channel from said mobile station to said base station”** as now claimed.

As the Examiner acknowledges on page 3 of the Office Action, Yun does not teach this claimed feature. In order to cure this deficiency of Yun, the Examiner alleges that Park teaches “ceasing of transmission of data rate information on said data rate control channel in response to the request of data file delivery” and cites col. 14, lines 7-17 and 40-50 in support thereof.

Park teaches that a mobile station **“can stop gated transmission upon receipt of the message to stop gated transmission”** (see col. 14, lines 40-43, emphasis added) in which the message to stop gated transmission is sent by the base station, see col. 14, lines 38-40. Hence, Park does not teach or suggest the claimed feature **“ceasing, in response to said concluding of delivery of said data file on said traffic channel from said mobile station to said base station, communication of data rate control information on said data rate control channel from said mobile station to said base station”** (emphasis added) as now claimed.

PATENT

REQUEST FOR ALLOWANCE

In view of the foregoing, Applicant submits that all pending claims in the application are patentable. Accordingly, reconsideration and allowance of this application are earnestly solicited. Should any issues remain unresolved, the Examiner is encouraged to telephone the undersigned at the number provided below.

Respectfully submitted,

Dated: September 16, 2005

By: W. Chris Kim
W. Chris Kim, Reg. No. 40, 457
(858) 651 - 6295

QUALCOMM Incorporated
5775 Morehouse Drive
San Diego, California 92121
Telephone: (858) 658-5787
Facsimile: (858) 658-2502

Attorney Docket No.: 010359

Customer No.: 23696

BEST AVAILABLE COPY